

## CHAPTER 63

### MOTOR VEHICLE FRANCHISES — ALTERATION OF COMMUNITY

H.F. 395

**AN ACT** relating to the alteration of the community of a motor vehicle franchisee.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. **322A.3A Alteration of franchise.**

1. A franchiser shall not unreasonably alter a franchisee's community.

2. A franchiser shall notify a franchisee of a proposed alteration to the franchisee's community at least sixty days prior to the effective date of the proposed alteration. Within thirty days of a request by the affected franchisee, unless otherwise provided in the notice, the franchiser shall provide the franchisee with an explanation of the basis for the proposed alteration.

3. Prior to the effective date of a proposed alteration of a franchisee's community and after the receipt of the explanation of the basis for the proposed alteration, a franchisee may object to the proposed alteration of the franchisee's community. Upon a franchisee's objection, a franchiser shall provide an internal appeal process for the franchisee. However, the franchiser is not required to provide an internal appeal process if the franchiser has already provided the franchisee with an opportunity to object to the alteration of the franchisee's community and to provide information in objection to the alteration for the franchiser's consideration prior to the franchiser's issuance of notice of the proposed alteration.

4. *a.* Within fifteen days of the completion of the franchiser's internal appeal process, a franchisee may challenge the reasonableness of the proposed alteration of the franchisee's community by filing an application with the department requesting a hearing to be held pursuant to section 322A.7.

*b.* After a hearing held as described in this subsection, the department of inspections and appeals may affirm, deny, or modify the proposed alteration of a franchisee's community, may enter any other orders necessary to ensure that an alteration of the franchisee's community is reasonable in light of all the relevant circumstances, and may assess the costs of the hearing among the parties to the hearing as appropriate.

5. No change to the franchisee's community shall take effect during the pendency of the internal appeals process specified in subsection 3 or the hearing specified in subsection 4.

6. A franchiser shall not take any adverse action against a franchisee as a result of an alteration of the franchisee's community for at least twelve months after the effective date of the alteration.

Sec. 2. Section 322A.7, Code 2013, is amended to read as follows:

**322A.7 Department of inspections and appeals to hold hearing.**

1. Upon receiving an application, the department shall notify the department of inspections and appeals which shall enter an order fixing a time, which shall be within ninety days of the date of the order, and place of hearing, and shall send by certified or registered mail, with return receipt requested, a copy of the order to the franchisee whose franchise the franchiser seeks to terminate or not continue, or to the franchiser who is seeking to alter a franchisee's community, as applicable. If the application requests permission to establish an additional motor vehicle dealership, a copy of the order shall be sent to all franchisees in the community who are then engaged in the business of offering to sell or selling the same line-make. If the application challenges the reasonableness of a proposed alteration to a franchisee's community, a copy of the order shall be sent to all franchisees located in Iowa surrounding the affected community which are then engaged in the business of offering to sell or selling the same line-make. Copies of orders shall be addressed to the franchisee at the place where the business is conducted. The department of inspections and appeals may also give notice of the franchiser's application to any other parties deemed interested persons, the notice to be in the form and substance and given in the manner the department of inspections and appeals deems appropriate.

2. Any person who can show an interest in the application may become a party to the hearing, whether or not that person receives notice. However, a party not receiving notice shall be limited to participation at the hearing on the question of the public interest in the termination or continuation of the franchise or in the establishment of an additional motor vehicle dealership.

Sec. 3. Section 322A.9, Code 2013, is amended to read as follows:

**322A.9 Burden of proof.**

1. Upon hearing, the franchiser shall have the burden of proof to establish that under the provisions of this chapter the franchiser should be granted permission to terminate or not continue the franchise, or to enter into a franchise establishing an additional motor vehicle dealership, or to alter a franchisee's community.

2. Nothing contained in this chapter shall be construed to require or authorize any investigation by the department of any matter before the department under this chapter. Upon hearing, the department of inspections and appeals shall hear the evidence introduced by the parties and shall make its decision solely upon the record so made.

Approved April 24, 2013